

MATHIAS, Judge

Joseph Laycock (“Laycock”) filed a petition to set aside the paternity order naming Brent Godbey (“Godbey”) as the father of K.B.G. in Montgomery Circuit Court. K.B.G.’s mother, Dayonna Murdock (“Mother”), moved to dismiss Laycock’s petition and objected to the trial court’s order allowing Laycock to amend his petition. The trial court denied Mother’s motion to dismiss. Mother appeals and argues that Laycock did not establish that the court’s prior order establishing the paternity of K.B.G. was procured by fraud on the court as is required by Trial Rule 60(B). We affirm.

Facts and Procedural History

K.B.G. was born to Mother on March 1, 2004. Shortly thereafter, Mother filed a petition to establish paternity and named Godbey as K.B.G.’s father. Godbey executed a paternity affidavit and acknowledged that he is K.B.G.’s father.

On May 31, 2006, Laycock filed a petition to set aside the paternity order naming Godbey as K.B.G.’s father. In the unverified petition, Laycock alleged that on June 25, 2003, Mother told him that she was pregnant with his child. Laycock requested DNA testing to establish whether he is K.B.G.’s biological father.

On August 1, 2006, Godbey moved to dismiss Laycock’s petition. Eleven days later, Laycock requested leave to file an amended petition. His request was granted and Laycock filed an amended petition on behalf of K.B.G. as her next best friend. In the petition, Laycock stated that he had “sexual relations” with Mother in June of 2003 and “now believes he may be the father of” K.B.G. Appellant’s App. p. 40. In addition, Laycock alleged that Mother deceived and defrauded the court “by failing to name Mr. Laycock as the putative father in this paternity action and by swearing under oath in her

petition filed herein on May 27, 2004, that she only had intercourse with Brent Godbey during the time [K.B.G.] was conceived[.]” Id.

On August 22, 2006, Mother filed a motion to dismiss Laycock’s petition for the following reasons: 1) Laycock was not a party to the paternity action and failed to request permission to intervene; 2) Laycock’s petition is in fact a Trial Rule 60(B) motion and the time limits set forth in that rule prohibit setting aside the original paternity order; 3) he has failed to state a claim upon which relief may be granted; and 4) the statute of limitations has expired. Appellant’s App. p. 42. Mother and Godbey also filed an objection to the order granting Laycock’s motion to amend his petition. Laycock then filed a motion to intervene alleging that Mother should have named him as a party in the original paternity action. Mother and Godbey also objected to the motion to intervene.

A hearing was held on these various motions on September 19, 2006. On October 6, 2006, the trial court issued its “Order Deferring Ruling on Motion to Dismiss Amended Petition; Order Overruling Objection to Order Permitting Amended Petition; Order Overruling Objection to Motion to Intervene; Order Granting Request in Amended Petition to Order DNA Testing.” In its order, the trial court concluded that Laycock should be permitted to intervene because “[a]s a putative father of [K.B.G.], Laycock should have been named as a party in the 2004 paternity action.” Appellant’s App. p. 10. The court also determined that Laycock’s “status as a putative father plus his failure to have been named as such in the original paternity petition is enough for this Court to find that relief under [Indiana Trial Rule] 60(B)(8) is necessary and just. Id. at 11-12. Finally, the court concluded that “[o]nce a paternity action has been filed, upon the

motion of any party, the court shall order all of the parties to a paternity action to undergo blood or genetic testing. By intervening, Laycock has become a party to the 2004 paternity action and thus may move for blood or DNA testing.” Id. at 12-13. The court deferred its ruling on Laycock’s petition to set aside the original paternity order “until results from the DNA testing are available.” Id. at 13. Mother now appeals.

Standard of Review

Laycock failed to file an appellate brief. When an appellee fails to submit a brief, we will not “undertake the burden of developing arguments for the appellee.” In re Paternity of B.D.D., 779 N.E.2d 9, 13 (Ind. Ct. App. 2002). Therefore, “[w]e apply a less stringent standard of review with respect to showings of reversible error, and we may reverse the trial court’s decision if the appellant can establish prima facie error.” Id. In this context, prima facie error is defined as “at first sight, on first appearance, or on the face of it.” Id. (citations omitted).

Next, we observe that a motion for relief from judgment is within the equitable discretion of the court, and appellate review of the grant or denial thereof is limited to whether the trial court abused its discretion. Joyner v. Citifinancial Mortgage Co., 800 N.E.2d 979, 981 (Ind. Ct. App. 2003). An abuse of discretion occurs when the trial court’s decision is clearly against the logic and effect of the facts and circumstances before it, or the reasonable inferences to be drawn therefrom. Id.

Discussion and Decision

Initially, we observe that “the Indiana Code has no provision for the filing of an action to disestablish paternity.” Paternity of H.J.B., 829 N.E.2d 157, 159 (Ind. Ct. App.

2005). Yet, a man claiming to be a biological father of the child may file a petition to establish paternity “in a situation where a father already exists, thus indirectly disestablishing paternity of that father.” Id. at 159 n.2 (citing K.S. v. R.S., 669 N.E.2d 399, 400-01 (Ind. 1996)); see also Paternity of N.R.R.L., 846 N.E.2d 1094, 1097 (Ind. Ct. App. 2006), trans. denied (“Although Rogge’s execution of the paternity affidavit established him as the child’s legal father, that does not preclude another man from attempting to establish paternity of the child.”). Moreover, a child has an interest in identifying his or her biological father for psychological and/or medical reasons. See K.S., 669 N.E.2d at 403 n.3.

The trial court determined that “Laycock should have been included as a necessary party in the original paternity action.” Appellant’s App. p. 11. Consequently, the court concluded that Laycock should be permitted to proceed with his petition to set aside the paternity order naming Godbey as K.B.G.’s father under Trial Rule 60(B)(8), which provides that “[o]n motion and upon such terms as are just the court may relieve a party” from final judgment for “any reason justifying relief from the operation of judgment[.]” The court then concluded that “there is no need for Laycock to conclusively establish fraud on the court since his status as a putative father plus his failure to have been named as such in the original paternity petition is enough for this Court to find that relief under [Trial Rule] 60(B)(8) is necessary and just.” Appellant’s App. pp. 11-12.

On appeal, Mother does not challenge the trial court’s decision to allow Laycock to proceed with his petition to set aside the original paternity order pursuant to Rule 60(B)(8). Mother only argues that the trial court “was required to dismiss” Laycock’s

petitions to set aside the paternity order because Laycock failed to establish “fraud on the court.” Br. of Appellant at 4. Because the trial court did not rely on a finding that Laycock had established fraud on the court in issuing its decision, we need not address Mother’s argument. Consequently, we affirm the trial court’s order denying Mother’s motion to dismiss Laycock’s petition to set aside the paternity order naming Godbey as K.B.G.’s father.

Affirmed.

NAJAM, J., and BRADFORD, J., concur.